REQUEST FOR PROPOSALS

LEGAL SERVICES
FOR
TOWN OF WEST HARTFORD
SELF-INSURED LIABILITY PROGRAMS
AND
HUMAN RESOURCES / LABOR RELATIONS PROGRAM

Release Date: November 9, 2017
RFP Submission Due Date: December 4, 2017

BID# 6613 RFP

TOWN OF WEST HARTFORD

REQUEST FOR PROPOSALS

LEGAL SERVICES FOR
TOWN OF WEST HARTFORD
SELF-INSURED LIABILITY AND WORKERS' COMPENSATION PROGRAMS
AND
HUMAN RESOURCES / LABOR RELATIONS PROGRAM
BID# 6613 RFP

PURPOSE

The Town of West Hartford is seeking proposals for the purpose of developing a panel of highly-qualified lawyers (hereinafter "Firms") to perform legal services on behalf of the Town of West Hartford and West Hartford Board of Education (hereinafter "Town") for defense in lawsuits relating to the Town's Self-insured Liability Program and Workers' Compensation Program. In addition, the Town is seeking Firms to represent the Town in connection with its Human Resources and Labor Relations Program. The Town will select more than one Firm to comprise a panel to provide legal representation for the Town. The number of Firms selected will depend, in part, on the range of expertise of the Firms which provide proposals.

SUBMISSION DEADLINE

All technical inquiries regarding this RFP must be in writing and must be addressed to the Director of Financial Services. The deadline for submitting question related to the RFP is by 4:00PM, EST., Monday, November 20, 2017. All responses to all questions will be furnished through a formal addendum following the closing date herein.

The deadline for submission if proposals is no later than 3:00PM EST., Monday, December 4, 2017. Four copies of the proposal shall be signed by an authorized representative of the Firm and submitted to:

Peter Privitera
Director of Financial Services
Town of West Hartford
50 South Main Street,
West Hartford, CT 06107-2431
T: 860 561-7461
Peter.Privitera@westhartfordct.gov

INCURRING COST

The Town does not expressly state or imply any obligation to reimburse responding Firms for any expenses incurred in preparing submissions in response to this request or work performed prior to the issuance of a contract.

REJECTION/ACCEPTANCE OF PROPOSALS

The Town reserves the right to reject any and all proposals as it deems necessary or appropriate and to select a Firm in a manner that is advantageous to the Town and to waive all formalities in the bidding.

CONTRACT AGREEMENT

The selected Firm(s) will be required to agree to and sign a formal written contract agreement between the Town and the Firm prepared by the Legal Department of the Town.

The annual fee relating to the period of performance under this contract is subject to annual appropriation by the Town. If there is no annual appropriation, then the contract will become null and void and of no force and effect. Both the Town and the Firm will have the right, under the terms of the contract, to cancel the contract as of June 30 of any year on notice to the other party at least sixty days prior to that June 30th date.

TERM

The selected Firms will be expected to commence the provision of services subject to contract execution for a three (3) year contract commencing on or about January 1, 2018 and expiring December 31, 2020, with an optional two (2) year extension at the discretion of the Town.

INDEMNIFICATION AND INSURANCE

The Firm and others acting on behalf of the Firm shall comply with the indemnification and insurance requirements described in the Indemnification and Insurance Exhibit, attached hereto and incorporated by reference into the final Contract. Failure to comply with any of the indemnification and insurance requirements may be held a willful violation and basis for immediate termination of the Contract

DESCRIPTION OF SCOPE OF SERVICES REQUIRED

The required scope of services are described in greater detail in exhibits attached hereto and incorporated by reference for the following:

A. **Exhibit A** – Self-Insured Liability Program
B. **Exhibit B** – Self-Insured Workers' Compensation Program
C. **Exhibit C-** Human Resources and Labor Relations Program

SUBMISSION REQUIREMENTS

The Firm's proposal shall include the following:

A. Description of the Firm and a list of attorneys who may be assigned to handle the Town's cases, including:
    a. Curriculum vitae or resume or other description of background for each such attorney
    b. Description of each attorney's specialty of law
    c. Evidence of each attorney's admission to practice law in the State of Connecticut
    d. Each attorney's admission to practice in Federal District Court, Federal Court and Appeals and/or the U.S. Supreme Court

B. Description of the Firm's experience and expertise in the following areas:

a. Self-Insured Liability Program, including but not limited to, General Liability, Automobile Liability, Law Enforcement Liability, Public Official and School Leader Liability:

1. Number of cases handled of each kind within the last three (3) years
2. Courts of venue
3. Whether your Firm represented plaintiff or defendant
4. Results achieved, including what number of cases were settle, tried and resultant verdicts/decisions

b. Self-insured Workers' Compensation Program, including Heart & Hypertension:

1. Number of workers' compensation cases handled within the last three (3) years
2. Number of heart & hypertension cases handled within the last three (3) years
3. Courts of venue
4. Whether your Firm represented plaintiff or defendant
5. Results achieved, including what number of cases were settled tried and resultant verdicts/decisions

c. Human Resources and Labor Relations Program:

1. Number of municipal human resources and labor relations legal proceedings, including, hearings, administrative proceedings, mediations, arbitration hearings and related litigation within the last three (3) years
2. Courts of venue
3. Results achieved including resultant verdicts/decisions

C. Information on the size of the Firm and its level of staff support.

D. An affirmative statement of the absence of potential conflicts in representing the Town.

E. A copy of any conflict policies and procedures.

F. A current representative list of clients and references.

G. Completion of the attached Proposal Form and required documentation. ALL PROPOSALS SHALL BE SIGNED BY AN INDIVIDUAL AUTHORIZED TO BIND THE FIRM.

H. Firm's name, address and signature of the individual with authority to negotiate and contractually bind the Firm. In addition, provide the name, title, phone and email address of the individual who may be contacted during the period of proposed evaluation.

OTHER CONSIDERATIONS

A. Firms who are selected to represent the Town must agree that they will not represent clients in any type of suits or claims against the Town.

B. Firms selected must be willing to work closely with attorneys in the Corporation Counsel's office and the Town's Third Party Administrators.

C. Firms must agree to permit the Town to have a legal audit performed of all matters handled by the Firm and the Town.

D. Town shall retain the right to specify the particular attorney or attorneys within the Firm.

E. Firms must agree that it will not engage expert witnesses, perform research, or incur investigative or other unusual expenses, without the express consent of the Town or its Third Party Administrator. All expense items must be documented by bills or receipts.

F. Firms shall submit itemized invoices for services rendered shown in tenths of an hour (i.e., 1/10 = 6 minutes) as follows:

   a. Monthly invoices to the Town for services related to Human Resource/Labor Relations Program not later than fifteen days after the close of each calendar month.

   b. Quarterly invoices to the Third Party Administrators for services related to the Self-Insured Liability and Workers' Compensation Programs not later than fifteen days after the close of each calendar quarter.

G. The Town will not pay extra money for general overhead and administrative costs such as, but not limited to, secretarial time, word processing time, and equipment rental.

H. The Town reimburse a per page charge for photocopies not to exceed $ .10 per page for in-house photocopying and $ .20 per page from an outside photocopying services.

I. The Town complies with, and requires each and every business and corporate entity, partnership, and person doing business for and/or with the Town to comply with, any and all federal, state, and municipal laws, constitutions or charters, Executive Orders, statutes, ordinances, regulations, or guidelines, prohibiting discrimination, as they exist or may be promulgated in the future

SELECTION CRITERIA

All proposals submitted will be reviewed against the criteria listed below. Those considered to be most qualified will be invited to make a presentation to representatives of the Town. Final selection will be based upon the written proposal and the interview process as they relate to the following criteria:

A. Completeness and responsiveness of the proposal.
B. Competitiveness of the proposed fees.
C. Stated willingness to abide by the "Other Considerations" listed above.
D. Education, experience and professional background of the attorney(s) and other assigned staff of the Firm.

E. Ability of the Firm to perform necessary services in a timely and expeditious manner and to be available to the Town without unreasonable delay or interruption.
F. Satisfactory record of performance of similar services.
G. Ability to work closely with the Town and its Third Party Administrators and insurance carriers.

Self-Insured Liability Programs
Human Resources/Labor Relations Program
Legal Services Proposal Form

To: Peter Privitera, Director of Financial Services

We have read the **Request for Proposal for Self-Insured Liability Programs and Human Resources/Labor Relations Program** and fully understand its intent and contents. We certify that we can adequately fulfill the specified requirements. We understand that our ability to meet the criteria and provide the required services shall be judged solely by the Town.

The selected firm will be required to submit the following documentation prior to contract execution:

1. **IRS Form W-9**
2. **Evidence of each attorney's admission to practice law in CT**
3. **Evidence of each attorney's admission to practice in Federal District Court, Federal Court of Appeals and/or U.S. Supreme Court**
4. **Certificate of Insurance and Additional Insured Endorsement**

It is further understood that all information included in, attached to, or required by the Request for Proposal shall be public record upon delivery to the Town.

The undersigned hereby proposes to provide Legal Services, as described herein, for the Town of West Hartford and West Hartford Board of Education for the amount shown below. ***The Bidder has the option to submit proposals for one or more programs at its discretion.***

PROPOSED HOURLY RATES:

Self-Insured Liability	Sr. Partner	Jr. Partner	Associate	Paralegal
YEAR 1 (1/1/18 to 12/31/18)	$	$	$	$
YEAR 2 (1/1/19 to 12/31/19)	$	$	$	$
YEAR 3 (1/1/20 to 12/31/20)	$	$	$	$

Self-Insured Workers' Compensation	Sr. Partner	Jr. Partner	Associate	Paralegal
YEAR 1 (1/1/18 to 12/31/18)	$	$	$	$
YEAR 2 (1/1/19 to 12/31/19)	$	$	$	$
YEAR 3 (1/1/20 to 12/31/20)	$	$	$	$

Human Resources/Labor Relation	Sr. Partner	Jr. Partner	Associate	Paralegal
YEAR 1 (1/1/18 to 12/31/18)	$	$	$	$
YEAR 2 (1/1/19 to 12/31/19)	$	$	$	$
YEAR 3 (1/1/20 to 12/31/20)	$	$	$	$

Bidder's Name ____

Bidder's Address ____

Duly Authorized _________________________________ **Date**__________

Contact Name/Title ____

Phone (   )__________________**Email** _______________________

EXHIBIT A – SCOPE OF SERVICES

SELF-INSURED LIABILITY PROGRAM

The Town self-insures its municipal liability exposure up to $250,000 each occurrence, including general liability, automobile liability, law enforcement liability, public official and school leader liability. The Town purchases $20 million in excess insurance to cover catastrophic losses. Gemini Insurance Company, a subsidiary of W.R. Berkley Corporation is the primary excess carrier and provides limits of $5,000,000 excess of the self-insured retention. PMA Management Corporation of New England is the Third Party Claims Administrator.

The selected Firms shall provide defense to the Town for claims and lawsuits made against the Town related to its Self-Insured Liability Program (including but not limited to, general liability, automobile liability, law enforcement liability, public official and school leader liability) as follows:

A. Represent the Town in legal proceedings including but not limited to administrative hearings, mediations, pre-trials and trials or informational meetings.

B. Negotiate settlement of suits and claims upon request of the Town and only within the authority provided by the Town or its Third Party Administrators.

C. Comply with the **Litigation Management Guidelines** for the Town's current Third Party Administrator contained in **Attachment 1** and; any future litigation guidelines that may change from time to time over the life of the contract.

D. Comply with **Litigation Management Guidelines** for the Town's current primary excess carrier contained in **Attachment 2** and; any future litigation guidelines that may change from time to time over the life of the contract.

E. Comply with the Town's excess insurance policies reporting requirements that may change from time to time over the life of the contract.

F. Meet as necessary with the Risk Manager and staff, Third Party Administrators, Corporation Counsel, Town Manager, Town's excess insurance carriers, any named defendant, and the West Hartford Town Council and/or Board of Education to discuss strategy relating to defense of claims and issues arising therefrom.

G. Serve in an advisory capacity on liability matters, including indemnification clauses and other related contractual language.

H. Be available upon the reasonable request of the Town for consultation as necessary.

EXHIBIT B – SCOPE OF SERVICES

SELF-INSURED WORKERS' COMPENSATION PROGRAM

The Town self-insures its workers' compensation exposure up to $500,000 each occurrence. Excess insurance is maintained with Safety National Casualty Corporation and covers excess of the self-insured retention up to statutory limits. PMA Management Corporation of New England is the Third Party Claims Administrator.

The selected Firms shall provide defense to the Town for claims and lawsuits made against the Town related to the Self-Insured Workers' Compensation Program for work related injuries and illnesses governed by the Connecticut Workers' Compensation Act, including heart and hypertension as follows:

A. Represent the Town in legal proceedings, including but not limited to, informal and formal hearings, mediations, pre-trials and trials or informational meetings.

B. Negotiate settlement of suits and claims upon request of the Town and only within the authority provided by the Town or its Third Party Claims Administrator.

C. Comply with the **Litigation Management Guidelines** for the Town's current Third Party Administrator contained in **Attachment 3** and; any future litigation guidelines that may change from time to time over the life of the contract.

D. Comply with the Town's excess insurance policy reporting requirements that may change from time to time over the life of the contract.

E. Meet as necessary with the Risk Manager and staff, Third Party Administrators, Corporation Counsel, Town Manager, Town's excess insurance carriers, any named defendant, and the West Hartford Town Council and/or Board of Education to discuss strategy relating to defense of claims and issues arising therefrom.

F. Review proposals prepared by staff related to workers' compensation matters for negotiations with labor unions.

G. Serve in an advisory capacity on workers' compensation matters and be available upon the reasonable request of the Town for consultation as necessary.

EXHIBIT C – SCOPE OF SERVICES
HUMAN RESOURCES AND LABOR RELATIONS PROGRAM

The Town operates under the Council-Manager form of government, with a nine-member elected Town Council functioning as the legislative and policymaking body, an appointed Town Manager serving as the chief executive officer of the municipal corporation, and an Executive Director of Human Resources responsible for managing a comprehensive human resources program.

In accordance with the Town of West Hartford Charter, Chapter VIII, the Department of Human Resources has the primary role of supporting the organization by providing human resources management and services to the Town. Programs and services are subject to applicable rules and regulations of the Town Council, the Town of West Hartford Personnel Rules, collective bargaining agreements, part time administrative rules, policies and procedures, and state and federal regulations.

The Department of Human Resources is organized into multiple divisions with programmatic responsibility for recruitment and testing, position classification and pay administration, compensation and benefit administration, employee records administration, employee and labor relations, collective bargaining and contract administration, training and development, affirmative action, pension and risk management administration. Additionally, Human Resources develops, interprets, and implements uniform, non-discriminating personnel policies and procedures and ensures that all activities are consistent with applicable state and federal laws.

The Town has 445 full time employees and approximately 176 part time (excluding seasonal, temporary, or contracted) employees. Employment increases seasonally by approximately 150 part time employees. Twelve (12) labor unions represent the following employees:

Town Bargaining Units/Groups	Number of Members
CSEA Local 2001 SEIU	
Building Maintenance Unit	4
Custodians – Part-time Unit	19
Clerical Unit	39
Ground Maintenance Unit	19
Parking Monitors Unit	3
Professional & Management Unit	72
Supervisory Unit	6
Public Safety Dispatchers Unit	11
AFSCME, Council #4, Local 1142 – Streets Unit	23

West Hartford Police Officers Association	122
IAFF, Local 1241, West Hartford Firefighters Association	85
Crossing Guards Association	44
Non-Union /Non-Affiliated Full Time Employees	38

The selected Firms shall provide the following scope of services related to the Human Resources and Labor Relations Programs as follows:

A. Serve in an advisory capacity to the Town Manager and Executive Director of Human Resources on human resources and labor relations issues.

B. Review proposals prepared by staff for negotiations with labor unions.

C. Review personnel policies prepared by staff to ensure compliance with relevant state and federal laws.

D. Advise and assist staff on complex employment and labor matters including, but not limited to, ADA, FMLA, termination cases and personnel investigations.

E. Represent or advise the Town in human resources and labor relations legal proceedings, hearings, informational meetings or in administrative proceedings, mediations, and arbitration hearings, as requested.

F. Review, analysis, investigation and research to carry out the services described above.

G. Represent the Town in litigation pursuant to claims and allegations stemming from or related to the services described above.

H. Meet as necessary with the Corporation Counsel, Town Manager, Human Resources team and other Town personnel, Third Party Administrator(s), insurance carrier(s), any named defendant, and the West Hartford Town Council to discuss strategy relating to defense of claim(s), collective bargaining, and/or issues arising therefrom.

I. Being available upon the reasonable request of the Town of West Hartford for consultation as necessary.

Indemnification and Insurance Exhibit

Legal Services

For purpose of this Exhibit, the term "Firm" shall also include their respective agents, representatives, employees, contractors of any tier; and the term "Town of West Hartford and West Hartford Board of Education" (hereinafter called the "Town") shall include their respective boards, commissions, officers, officials, employees, agents, representatives and volunteers.

I. INDEMNIFICATION

A. Firm agrees to defend, indemnify and hold harmless Town of West Hartford and its respective boards and commissions, officers, officials, agents, representatives, employees and volunteers for any and all liabilities resulting from suits, claims, losses, damages, costs (including without limitation reasonable attorney's fees), compensations, penalties, fines, liabilities or judgments of any name or nature for, including, but not limited to, injuries or alleged injuries to person(s) (including without limitation, bodily injury, sickness, disease or death), or to property, real or personal, or financial losses (including, without limitations, those caused by loss of use) sustained by any person or concern is caused or alleged to have been caused in whole or in part by any and all negligent or intentional acts, errors or omissions of the Firm and others acting on behalf of the Firm arising from or related to the performance of this Contract, including any violation or non-compliance with any federal, state, local statute, ordinance, rule, law or regulation.

B. This duty to indemnity shall not be constrained or affected by the Firm's insurance coverage or limits, or any other portion of the Contract relating to insurance requirements. It's agreed that the Firm's responsibilities and obligations to indemnify shall survive the completion, expiration, suspension or termination of the Contract.

II. INSURANCE

A. **Insurance Requirements**

1. The Firm shall obtain and maintain at its own cost and expense all the insurance described below continuously for the duration of the Contract, including any and all extensions, except as defined otherwise in this Exhibit.

2. Firm's policies shall be written by insurance companies authorized to do business in the State of Connecticut, with a Best's rating of no less than A:VII, or otherwise approved by the Town.

3. <u>All policies (with the exception of Worker's Compensation and Professional Liability) shall be endorsed to include the Town of West Hartford, West Hartford Board of Education, and their respective boards, commissions, officers, officials, employees, agents, representatives, and volunteers as an Additional Insured.</u> The coverage shall include, but not be limited to, investigation, defense, settlement,

judgment or payment of any legal liability. Blanket Additional Insured Endorsements are acceptable. Any Insured vs. Insured language shall be amended to eliminate any conflicts or coverage restrictions between the respective.

4. When the Town or the Firm is damaged by failure of the Firm to purchase or maintain insurance required under this Exhibit, the Firm shall bear all reasonable costs including, but not limited to, attorney's fees and costs of litigation properly attributable thereto.

B. **Required Insurance Coverages:**

1. **Commercial General Liability:** $1,000,000 limit each occurrence / $2,000,000 aggregate for premises/operations, products/ completed operations, contractual liability, personal injury and broad form property damage.

2. **Automobile Liability and Physical Damage Coverage:** $500,000 limit each accident for any auto, including uninsured/underinsured motorist coverage and medical payments. Policy shall include collision and comprehensive physical damage coverage.

3. **Lawyers Professional Liability (claims-made):** 2,000,000 each claim, $4,000,000 annual aggregate. Retroactive date under the policy shall precede the effective date of this Contract. The Firm shall maintain continuous coverage or obtain an extended reporting period in which to report claims for two (2) years following end of the Contract.

4. **Valuable Papers and Records Coverage:** $100,000 limit to reestablish, recreate or restore any and all records, photographs, maps, depositions, court filings, statistics, notes and other data, if made unavailable by fire, theft, flood or any other cause, regardless of the physical location of these insured items.

5. **Workers' Compensation and Employer's Liability:** Statutory coverage in compliance with the Workers' Compensation laws of the State of Connecticut or applicable to the work to be performed. Policy shall include Employer's Liability with minimum limits of $100,000 each accident, $500,000 disease/policy limit, $100,000 disease/each employee.

   The Firm represents that they are currently in compliance with all requirements of the State of Connecticut Workers' Compensation Act and that it shall remain in compliance for the duration of the Contract. The Firm agrees that Workers' Compensation is their sole remedy and shall indemnify and hold harmless the Town from all suits, claims, and actions arising from personal injuries to the Firm, however caused. This indemnity shall not be affected by a lapse of Workers' Compensation coverage and/or if the Firm failed, neglected, refused or is unable to obtain Workers' Compensation insurance.

6. **Personal Property:** All personal property of the Firm are the sole risk of the Firm. The Firm agrees to indemnify, defend and hold harmless the Town from any and all losses or damages, however caused, to any and all personal property belonging to the Firm.

C. **Additional Terms**

1. Minimum Scope and Limits: The required insurance shall meet the minimum scope and limits of insurance specified in this Exhibit, or required by applicable federal, state and/or municipal law, regulation or requirement, whichever coverage is greater. Providing proof of compliance with the insurance requirements described in this Exhibit is not intended, and shall not be construed to exclude the Town from additional limits and coverage available to the Firm.

   Acceptance by the Town of insurance submitted by the Firm does not relieve or decrease in any manner the liability of the Firm arising out of or in connection with this Contract. The Firm is responsible for any losses, claims and costs of any kind which exceed the Firm's limits of liability, or which may be outside the coverage scope of the policies, or a result of non-compliance with any laws including, but not limited to, environmental laws. The requirements herein are not intended, and shall not be construed to limit or eliminate the liability of the Firm that arises from the Contract.

2. Certificates of Insurance: The Firm shall provide certificates of insurance, policy endorsements, declaration page(s) or provisions acceptable to the Town confirming compliance with this Exhibit and thereafter upon renewal or replacement of each required policy of insurance. Upon request, the Firm agrees to furnish complete copies of the required policies.

3. Subcontractor: Firm shall cause all contractors of any tier, acting on its behalf, to comply with this Exhibit. The Firm shall either include its contractors as an Insured under its insurance policies or furnish separate certificates of insurance and endorsements for each subcontractor.

4. Premiums, Deductibles and Other Liabilities: Any and all related costs, including but not limited to, deductibles, retentions, losses, claim expenses, premiums, taxes, and audit charges earned are the sole responsibility of the Firm.

5. Occurrence Form, Primary and Non-Contributory: All required insurance coverage shall be written on an occurrence basis, except as defined otherwise in this Exhibit. Each required policy of insurance shall be primary and non-contributory with respect to any insurance or self-insurance maintained by the Town.

6. Claims-made Form: Insurance coverage written on a claims-made basis shall have a retroactive date that precedes the effective date of this Contract. The Firm shall maintain continuous coverage or obtain an extended reporting period in which to report claims following end of the Contract, for a minimum of two (2) years, except as defined otherwise in this Exhibit.

7. Waiver of Rights of Recovery: Both the Firm and Firm's insurers shall waive their rights of recovery or subrogation against the Town.

8. Claim Reporting: Any failure of the Firm to comply with the claim reporting provisions of the required insurance policies shall not relieve the Firm of any liability or indemnification in favor of the Town for losses which otherwise would have been covered by said policies.

9. Cancellation Notice: Each required insurance policy shall not be suspended, voided, cancelled or reduced except after thirty (30) days prior written notice has been given to the Town, ten (10) days for non-payment of premium.

10. Compliance: Failure to comply with any of the indemnification or insurance requirements may be held a willful violation and basis for immediate termination of the Contract.

PMA Management Corp

Liability Litigation

Management Guidelines

for Defense Counsel

Effective January 2015

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SECTION 1 – DEFENSE COUNSEL

I. INTRODUCTION & RESPONSIBILITIES

Defense Counsel plays an integral part in the claims resolution process. Our Claim Professionals rely on you for legal advice and guidance to assist them in meeting PMAMC's obligations under its insurance policies and claims administration contracts. This process should be a team effort between PMAMC Claims and Counsel to best protect the interests of our mutual clients and to handle their claims promptly, efficiently and equitably. Nothing contained herein is intended to nor shall restrict counsel's independent exercise of professional judgment in rendering legal services for the Insured or otherwise interfere with any ethical directive governing your conduct as counsel.

We know you are prepared to assist our Claim Professionals and we appreciate the value of your services and cooperation.

II. RESPONSIBILITIES OF PMAMC

- Assign, at the direction of the client, competent counsel to protect the interests of our mutual clients.
- Provide counsel with the information necessary to defend our mutual client.
- Develop and authorize a Joint Litigation Plan with counsel.
- Effectively manage litigation by adhering to the Joint Litigation Plan.
- Communicate litigation developments to our mutual client.

III. RESPONSIBILITIES OF COUNSEL

- Protect the interests of our mutual client.
- Develop a Joint Litigation Plan with the Claim Professional.
- Provide a budget in accordance with these guidelines, with updates as needed.
- Provide legal analysis; opinion and exposure assessment, including settlement and verdict value ranges as outlined in the reporting criteria throughout the litigation process.

- Immediately report important events.
- Respond promptly to requests by PMAMC for clarification or elaboration on any topic.
- Consult with the Claim Professional prior to filing any affirmative pleading, joinder, appeal, or other substantive motion.
- Consult with the Claim Professional prior to retaining any expert or vendor.
- Consult with the Claim Professional prior to agreeing to participate in any voluntary mediation/arbitration, including the selection of arbitrators.
- Be cost conscious and reasonable with regard to expense.
- Communicate litigation developments to our mutual client.
- Assist with CMS Reporting compliance. In order to assist PMAMC and it's clients in meeting CMS reporting requirements, we are requiring expansion to Plaintiff Interrogatories as follows:

1. Plaintiff's legal full name (no nicknames or just initials):
   a. First name, middle name, last name
   b. Any maiden names(s)?
   c. Other names by which claimant is known, i.e. nicknames used in place of legal name
   d. Address
   e. Social Security Number
   f. Date of birth
   g. Date of death (if applicable)

2. Whether plaintiff is enrolled in Medicare
   a. Health Insurance Claim Number (HICN)
   b. Date eligibility began

3. Has plaintiff applied for Social Security Disability Insurance?
   a. Date applied
   b. Was the claim ever denied?
   c. If so, the date the denial of benefits was made
   d. The reason for the denial stated by Social Security Administration
   e. Was the denial of benefits appealed?
   f. The date of any such appeal
   g. Was the denial of benefits reversed?

4. If Social Security Disability Insurance benefits were awarded?
   a. The date of such award
   b. List the beginning date the Social Security Disability Insurance benefits covered
   c. List the period for which such benefits were paid, for example 6/1/07 to present.
   d. The injury claimed that resulted in the award
   e. The date the injury occurred for which the SSDI was awarded

5. If the plaintiff is deceased, were the medical bills for treatment which are the basis of this law suit paid for by Medicare?
   a. Were they submitted to Medicare for payment?
   b. What was the total dollar figure of bills submitted?
   c. Did Medicare make any payments?
   d. What was the total dollar figure of bills paid by Medicare?

6. Name all injuries to the body that the plaintiff alleges were insured as a result of the exposure to the substances alleged to have caused plaintiff's injury.

7. Does the claimant have any form of kidney disease?
   a. Type of disease?
   b. Date diagnosed?
   c. Who diagnosed the disease?
   d. Have they treated for the disease?
   e. Are they currently treating for the disease?
   f. If so, describe the treatment
   g. Who are they treating with?
   h. What is the medical prognosis of the disease?

8. Does the claimant have end stage renal failure?
   a. If yes, when was it diagnosed?
   b. Has the claimant applied to Medicare?
   c. When did they apply?
   d. What is the Medicare Heath Insurance Claim Number (HICN)?

IV. DOCUMENTATION TO PMAMC

The claim professional should receive copies of every document contained in defense counsel's files, with the exception of copies of deposition transcripts (unless specifically requested).

V. SETTLEMENTS

- All settlement negotiations are to be handled by our Claim Professionals unless authorized by a PMAMC representative.

- We are committed to Alternative Dispute Resolution as a cost effective, efficient and equitable method of resolving litigated cases and it should be used whenever appropriate.

- We encourage the use of structured settlements. The Claims Professional will select the structured settlement provider and secure all structured settlement quotes.

- Our Claim Professionals will attend pre-trial conferences, settlement conferences, mediations/arbitrations and trials that we deem necessary. Notice should be provided to the Claim Professional as soon as these events are scheduled.

VI. ASSIGNMENT, STAFFING or LITIGATION MANAGEMENT

- The assigned attorney is responsible for the overall management of the litigation and should be involved in key aspects of the litigation. However, PMAMC recognizes there may be reasons to involve other legal personnel in the management of a case. We expect that anyone assigned to perform a task be fully competent to handle that task and not require supervision.

- We expect you to make the most appropriate staffing decisions to achieve our goal of cost effective litigation management.

- We must be consulted if more than two attorneys are assigned to assist in managing the litigation.

- Authorization from a PMAMC representative must be obtained prior to transferring the case to another attorney within the law firm.

SECTION 2 – LIABILITY REQUIREMENTS

I. INITIAL REPORTS

- Upon receipt of an initial referral, counsel must acknowledge receipt and advise the identity of the handling attorney to the Claim Professional and client. This acknowledgment must be in writing and submitted no later than 5 days from receipt of the initial referral.

- An "Initial Report" is to be forwarded to the Claim Professional within **<u>45 days</u>** of receipt of an initial referral. The report is to be in narrative format and outlined as follows:

A. Facts of loss
B. Summary of injuries and damages
C. Plaintiff's allegations and theory of liability
D. Estimation of liability of the Insured, Plaintiff, and all other named parties.
E. Pleadings:
  1. What has been filed?
  2. What additional pleadings, joinders, cross-claims, etc., are contemplated and what value will they add to the case?

F. What motions are anticipated and why?
G. Discovery:
  1. What discovery do you anticipate conducting?
  2. What discovery do you anticipate will be requested of our insured?

H. What are the key factual and legal issues?
I. What investigation is needed to resolve the key issues?
J. Defense theories
K. Experts:
  1. What experts are necessary, medical and others?
  2. When and why should they be retained?

L. Initial exposure assessment
M. Predilection of juries in the jurisdiction where case will be tried.
N. Evaluation of Plaintiff's counsel
O. Evaluation of Judge
P. Anticipated trial date
Q. Is this case a candidate for mediation or alternative dispute resolution?

II. JOINT LITIGATION PLAN

- The Joint Litigation Plan (JLP) should outline the respective responsibilities of Counsel and the Claim Professional, and provide target dates to complete those actions.

- Within **<u>60 days</u>** of receipt of the initial referral:

  - Counsel and the Claim Professional will discuss the law suit and come to an agreement on a Joint Litigation Plan.
  - Counsel will document and submit the Joint Litigation Plan

Example:

The following will serve to document the Joint Litigation Plan we agreed to on MM/DD/YYYY:

Counsel will:

Item	Target Date to Complete
File Plaintiff Interrogatories	03/31/2003
Meet with Client witnesses	02/28/2003

Claim Professional will:

Item	Target Date to Complete
Obtain Client witnesses' current Phone numbers and addresses	01/31/2003
Obtain lease agreement from Insured and forward to counsel	01/15/2003

III. LIABILITY BUDGET FORM

- The Liability Projected Budget form must be completed and submitted to the PMAMC Claim Professional by the assigned attorney **within 60 days of receipt** of assignment.
- This budget must be updated whenever a change to the Joint Litigation Plan impacts projected legal expenses.
- Bills received beyond the budgeted amount will not be paid unless previously approved or upon receipt of a supplemental budget.

IV. LIABILITY PROJECTED BUDGET

Case Caption: Attorney File No:

PMAMC Claim No: Attorney Assigned

1. PLEADINGS **ESTIMATED HOURS**

a) Preliminary Objection
b) Answer
1. New Matter
2. Cross Claims
3. Request for Damages
4. Demand for Jury
c) Third Party Complaints
d) Counter Claim
e) Motions

Subtotal Hours **x** Rate =

2. DISCOVERY **ESTIMATED HOURS**

a) Interrogatories and Request for Production
1. Party
2. Expert
b) Depositions
c) Investigation
d) Client Meetings
e) Conferences
f) Request for Admissions
g) Court Conferences
h) Settlement Conferences
i.) Research
j.) Experts
1. Liability
2. Damages
k.) Pre-trial Motions

Subtotal Hours **x** Rate =

3. TRIAL/TRIAL PREPARATION

a) Estimated Trial Preparation
b) Trial Prep Firms
c.) Estimated Trial Time

Subtotal Hours **x** Rate =

4. EXPENSES

a) Subpoenas
b) Court & Filing Fees
c) Transcripts
d) Travel expenses
e) Record Reproductions
f) Expert fees
g.) Other (explain)

TOTAL EXPENSES **$**

TOTAL ATTORNEY CHARGES AND EXPENSES **$**

NOTES: **Any item not needed to be done, leave blank**

V. DISCOVERY REPORTS

- Discovery reports should be provided to the Claim Professional as soon as possible, but not to exceed **30 days** from the reportable event. All reports should include the date the discovery is taken or received.

- Discovery reports are to be completed in addition to any other required reports, as outlined in this document.

  - Discovery reports should be outlined as follows:

A. DEPOSITION REPORTS (should be completed by the attorney attending the deposition)

1. Summary of the event
2. What effect the testimony has on the case
3. Appearance and credibility of witnesses
4. Comment on witnesses' experience and extent it is pertinent to the testimony and the case
5. Highlight points which confirm or refute the testimony of other witnesses
6. Impact on exposure assessment

B. INTERROGATORY SUMMARIES

1. Summary of the answers (specifically identify claimant's name, address, DOB if applicable, and social security number or tax identification number)
2. Impact on liability
3. Impact on damages
4. Impact on litigation plan
5. Impact on exposure assessment

C. DOCUMENT SUMMARIES

1. Summary of the document contents
2. Impact on liability
3. Impact on damages
4. Impact on litigation plan
5. Impact on exposure assessment

D. EXPERT REPORTS

1. Counsel must consult with the assigned Claim Professional as to who will conduct additional factual investigation necessary to defend the litigation.
2. Counsel must consult with the Claim Professional prior to retaining any expert witnesses.
3. Initial expert findings should be conveyed to Counsel verbally. Consult with the Claim Professional prior to requesting a written report. All reports should include:
   a. Summary of the expert's findings
   b. Impact on liability
   c. Impact on damages
   d. Impact on litigation plan
   e. Impact on exposure assessment

E. SCHEDULING CONFERENCES

1. Outcome of the conference
2. Impact on litigation plan

VI. 6 MONTH REPORTS

- This report should be completed every six months from receipt of the initial referral.

- The report should be outlined as follows:

A. Case Caption, including the Court, Term and Number
B. Brief description of the incident, including date, location and all parties and their involvement
C. Summary of Injuries and Damages
D. Lien Information- Amount, Carrier, type of collateral source
E. Witnesses and/or experts for the plaintiff and summary of anticipated testimony
F. Witnesses and/or experts for insured and summary of anticipated testimony
G. Witnesses and/or experts for co-defendants and summary of the anticipated testimony
H. Opinion on liability

1. Liability of plaintiff(s)
2. Liability of co-defendants and coverage available
3. Liability of Insured

I. Outstanding investigation and discovery
J. Anticipated date and duration of trial
K. Anticipated legal expenses of trial
L. Anticipated expert fees
M. Identify and comment on the experience of plaintiff's attorney, co-defendants' counsel, and the significance, if any, of the juries in the particular jurisdiction
N. All demands and offers of settlement by all parties, including dates and amounts
O. Is this case a candidate for mediation or alternative dispute resolution?
P. Exposure assessment.
Q. Probable verdict range
R. Comment on pre-judgment interest

VII. PRE – TRIAL, ARBITRATION AND MEDIATION REPORTS

- This report should be submitted at least **60 days** in advance of trial, arbitration or mediation date.

- This report should not be delayed pending completion of discovery.

- The Pre-Trial Report is still valid if the case is adjourned and later re-listed. However, counsel must advise if the original Pre-Trial Report is still accurate. If anything has changed, counsel must provide an addendum to the original report.

- This report should be outlined as follows:

A. Case Caption, including the Court, Term and Number
Brief description of the incident, including date, location and all parties and their involvement
B. Summary of injuries and damages
C. Lien Information- Amount, Carrier, type of collateral source
D. Experts for the plaintiff and summary of anticipated testimony
E. Experts for insured and summary of anticipated testimony
F. Experts for co-defendants and summary of the anticipated testimony
G. Opinion on liability
 1. Liability of plaintiff(s)
 2. Liability of co-defendants and coverage available
 3. Liability of Insured
H. Anticipated date and duration of trial
I. Anticipated legal expenses of trial
J. Anticipated expert fee
K. Identify and comment on the experience of plaintiff's attorney and the significance,
 1. If any, of the juries in the particular jurisdiction
L. All demands and offers of settlement by all parties, including dates and amounts
M. Suggested settlement range
N. Probable verdict range
O. Comment on pre-judgment interest
P. Any outstanding discovery items

VIII. TRIAL REPORTING

- If a case proceeds to trial or arbitration and the Claim Professional is not in attendance, counsel must contact the Claim Professional daily and provide details as to the status of the trial, new developments, analyses, settlement suggestions and anticipation of a potential verdict.

- In the event the case is tried to verdict, a post-trial or -arbitration report is required to be sent to the Claim Professional within **<u>3 business days</u>** of the verdict.

- The post-trial or-arbitration report should be outlined as follows:

- Make up of jury:

a. Brief summary and evaluation of each witness' testimony
b. Verdict and reason for same
c. Identify appealable issues for all parties
d. Recommendations on appeal which must include probability of success
e. Length of time and legal expenses anticipated in connection with appeal
f. Interest rate, pre-judgment interest and other imposable costs in the event of an unsuccessful appeal

g. Bond requirements

SECTION 3 – LIABILITY BILLING POLICY

PMAMC expects counsel to manage all cases with the highest degree of skill, and that counsel will exercise judicious and prudent judgment in the discharge of this responsibility. The following outlines PMAMC's Liability Billing Policy. PMAMC reserves the right to review all charges and disbursements pertaining to litigation, including the right to conduct audits and review the defense files in a manner that will not violate the attorney-client or work-product protections afforded to our mutual client, or otherwise interfere with any ethical directive governing the conduct of counsel. PMAMC reserves the right to not pay for any activities or charges that do not comply with the requirements outlined in this billing policy.

I. CHARGES FOR LEGAL SERVICES:

- **Professional services**: These will be billed at the agreed upon hourly rates. Professional services do not include any activities which involve secretarial, clerical, or administrative functions and do not require legal expertise in their completion.

- Examples of non-professional services , include but are not limited to:

  A. Scheduling and arrangements
  B. Scheduling of meetings
  C. Scheduling of appointments
  D. Scheduling and arrangements for examinations
  E. Preparation of:
    1. Notice of Taking Deposition
    2. Entry of Appearance – Form or Standard Format
    3. Substitution of Attorney – Form or Standard Format
    4. Jury Trial Demand – Form or Standard Format
    5. Stipulation to Extend Time – Form or Standard Format
  F. Calendaring
  G. Conflict checks
  H. Organize and re-organize files (if it does not involve sorting case documents such as individual documents attached to Requests for Production of Documents)
  I. Bate-stamping, date-stamping and pagination
  J. Indexing file materials
  K. Tabbing file materials
  L. Pick-up and delivery of documents and records
  M. Telephone calls and/or correspondence to copy services, record providers, court reporters
  N. Create and organize binders and notebooks
  O. Create and organize folders

P. Process vendor bills
Q. Collate
R. Prepare medical/employment authorizations – Form or Standard Format
S. Organize for storage
T. Update lists
U. Copy and bind
V. File and re-file
W. Inventory documents
X. Pull/copy documents
Y. Order reporter or translator
Z. Instructions to providers or vendors
    1. Travel arrangements
    2. Preparation of a record copy service form for employment/medical records

- Examples of professional services, which should be performed by paralegals include, but are not limited to:

A. Preparation of Subpoenas
B. Prepare Entry of Appearance – non-standard format
C. Prepare Substitution of Attorney – non-standard format
D. Prepare General Denial Answers
E. Prepare Answers which do not require affirmative defenses or specific denials
F. Prepare Interrogatories (form or standard)
G. Prepare Expert Interrogatories (form or standard)
H. Prepare Request(s) to Produce (form or standard)
I. Prepare Demand for Statement of Damages (form or standard)
J. Prepare Stipulations to Extend Time to Answer - non-standard format
K. Prepare Jury Trial Demand - non-standard format
L. Prepare Motions to Compel Responses to Discovery (form or standard). Note: If the state has a consultation requirement or each motion must be customized as opposed to being a standard form, this is an attorney function
M. Summarize medical or employment records
N. Summarize Answers to Interrogatories
O. Prepare Authorization to Secure Records (medical, tax, IRS, employment, union)
P. Prepare Draft of witness list
Q. Prepare Draft of exhibit list

II. OTHER NON-REIMBURSABLE CHARGES:

- Deposition summaries should be completed by the attorney attending the deposition. We will not reimburse for a summary prepared by a paralegal or non-attendee.

- Attorney time spent for providing work assignments or instructions.

- Intra-office conferences, including charges for reviewing or preparing internal memos.
- General diary or status file reviews. **These are defined as a review which is not precipitated by an event and does not result in the creation of any tangible work product.**
- Costs associated with the transfer of the case or a portion of a case between law firm personnel.
- **Legal research**: Prior approval must be obtained for legal research for any one particular topic which exceeds one hour. Approval should be documented on the law firm invoice. PMAMC will not pay for routine legal research (research concerning matters of common knowledge among reasonably experienced counsel in the venue). Counsel must provide copies of all legal research conducted.
- **Court appearances:** We expect to be billed for one attorney to attend trial, depositions, court appearances and other events related to the litigation. If extraordinary circumstances arise where counsel believes it is necessary to involve another legal professional in order to best protect our mutual client's interests, counsel must consult with the Claim Professional prior to the event, and that consultation should be documented on the law firm invoice.
- **Travel Time:** Travel time shall be billed at one-half the approved hourly rate.
- **Trial preparation:** We expect that counsel will properly prepare for trial, but ask that this is done prudently and not too far in advance of trial.
- **Billing**: Time spent preparing invoices or negotiating billing questions is not reimbursable.

III. CHARGES FOR EXPENSES:

- **Copying charges:** We will reimburse a per page charge for photocopies not to exceed **$.10 per page for in-house photocopying and $.20 per page from an outside photocopying service.** The number of pages and per page rate must be included on the law firm invoice.

- **Telephone and Fax expenses:** Appropriate long distance charges will be accepted. No charges should be billed for local telephone calls, faxes, or cell phone charges.

- **Postage charges:** Regular US mail and messenger or expedited mail service are considered normal overhead costs to the law firm, and should not be billed. However, PMAMC will reimburse for these services if their use is at PMAMC's request, or if an emergency situation arises that is out of the law firm's control and requires use of such a service to properly protect the client's interests. Approval of these exceptions should be documented on the law firm invoice.

- **Computer/Electronic Research:** Charges associated with the use of Westlaw, Lexus, and other computer research databases for legal research are considered an overhead item and are not reimbursable.

- **Travel Expenses:** PMAMC will consider reasonable expenses associated with travel. Each date of travel should be separately itemized and include the name of the traveler and purpose of the trip. Travel expenses require prior approval from the Claim Professional, which should be documented on the law firm invoice.

- **Air and Rail Travel:** Billed at coach rates. A copy of the receipt must accompany the law firm invoice.

- **Meals:** Reasonable charges for meals will be considered for reimbursement if they occur during overnight travel. A copy of the receipt must accompany the law firm invoice.

- **Hotels:** Overnight accommodations should be made at moderately priced hotels. A copy of the receipt must accompany the law firm invoice.

- **Mileage:** Reimbursed at the prevailing annual IRS rate.

- **Parking and tolls:** These charges must be separately described.

- **External Expenses:** Charges for services by outside vendors, other than photocopy services, will be reimbursed at their actual cost. Outside vendor invoices must specifically describe the nature of the expense, the date it was incurred, and the amount. It is counsel's responsibility to ensure that outside vendor's invoices are appropriately documented. If the expense is incurred directly by the law firm, it must be appropriately documented on the law firm invoice and a copy of the bill forwarded to PMAMC. Charges in excess of $250 must be submitted directly to PMAMC, unless specifically approved by a PMAMC representative.

- **Database/Data Entry Charges:** Charges for preparation, maintenance, data entry, scanning, programming and document input will not be reimbursed.

IV. BILLING REQUIREMENTS

- Time should be billed in increments of 1/10 of an hour.
- Time should be billed to the Claim Professional quarterly.
- More frequent billing is appropriate on complex cases which have accrued more than $10,000 in legal fees within the quarter.
- A separate explanation of each charge is expected. **No Block Billing.**
- The mere billing of a file should not, by itself, generate a status report.
- The item description should provide a clear explanation as to who is involved in the activity and how it relates to the litigation. The description should allow the Claim Professional to determine the professional service provided and assess the appropriateness of the time charge as it relates to the litigation.
- We ask that you exercise your best professional judgment in developing these descriptions to avoid any violation of the ethical obligations you have to your client and our insured, or any other party, in order to protect their privileged or confidential information.

EFFECTIVE 1st JANUARY, 2013

I. INTRODUCTION

It is the goal of Berkley Public Entity Managers, A Berkley Company (hereinafter "BPEM") to provide the highest quality defense and legal services for their insureds while achieving the best possible outcome in the most cost-effective manner. BPEM views the relationship with outside legal counsel as a long-term strategic partnership with a shared commitment to excellence; these Litigation Management Guidelines (the Guidelines) have been implemented to meet these requirements. These Guidelines must be strictly adhered to by all outside law firms and related vendors. Any proposed deviation from these procedures must be agreed to in writing by BPEM. BPEM reserves the right to withhold payment for any portion of an invoice that is not in compliance with these guidelines.

These Guidelines set forth BPEM's expectations, help define the working relationship between counsel and BPEM and ensure that both parties work together effectively. Successful outcomes in litigation management require close interaction and constant communication between legal counsel, the claim professional, and the insured. BPEM believes in the timely development and critical evaluation of a claim or suit. Only through the combined efforts of legal counsel, BPEM claims, and the insured in coordinating activities, joint decision-making and delivery of wide-ranging documentation will BPEM and the insured achieve the desired results in a claim or suit.

BPEM continuously examines ways to increase the efficiency of, and manage the costs of legal fees and expenses for, legal services provided by outside law firms and other related vendors. BPEM requires that the practices and procedures set forth in the Guidelines be followed in all legal representations and all billing activities. BPEM reserves the right to add to, delete from, and/or modify the practices and procedures set forth in these Guidelines at any time. Modifications to the practices and procedures set forth in the Guidelines shall become effective upon receipt of written notification by the outside law firms and other related vendors. Unless exceptions are approved in writing, these Guidelines constitute the terms under which you are engaged when employed by BPEM.
Please ensure that all attorneys and professional staff at your law firm or company who work on BPEM matters are familiar with these Guidelines, and that copies of these Guidelines are provided to the appropriate personnel in your firm's or company's billing department.

After you have reviewed these Guidelines, please sign and return to:

Stephen Dzury

Berkley Public Entity Managers
a W.R. Berkley Company

Senior Vice President, Claims
Berkley Public Entity Managers
30 South 17th Street, Suite 820
Philadelphia, PA 19103

Notwithstanding the above, nothing in the Guidelines is intended to interfere with legal counsel's obligation to exercise independent legal judgment in representing an insured.

II. CONFLICTS OF INTEREST

Any actual or potential conflicts of interest must be disclosed to BPEM, and waived in writing, prior to beginning a matter or as soon as the conflict or potential conflict becomes known. Prior to being retained, BPEM expects your law firm or organization to investigate and resolve any potential conflicts of interest you may have in representing BPEM. You must affirmatively represent to BPEM that you have investigated and resolved and potential conflicts, and that no conflicts preventing your representation were found to exist and/or that any conflicts have been fully resolved. If any conflicts are found, you must identify them in writing for our review and consideration prior to confirming your engagement. If conflicts are discovered after representation on a matter commences, you must immediately bring it our attention for our review and consideration, along with a plan for resolving the conflict.

It is critical that you and your firm are sensitive to both direct conflicts and indirect conflicts (i.e., conflicts that may arise from your firm's advocacy of other clients' positions that conflict with BPEM's business objectives).

III. CASE REFERRAL AND ENGAGEMENT LETTERS

A. New Case Assignments

All new case assignments must originate from BPEM, or an authorized Third Party Administrator (TPA) or Self Administrator (SA). New case assignments will be made by telephone, fax or e-mail. Every engagement of outside counsel for each new case assignment will be memorialized in an engagement letter setting forth the terms and conditions of the engagement and incorporating these Guidelines. Outside counsel agrees to acknowledge these Guidelines, and abide by them, as stated in the engagement letter.

B. Engagement Letters

The engagement letter will provide outside counsel with the specific information to represent, defend and protect the insured's interest in a specific claim or suit. A copy of the engagement letter will be sent to the insured and will include, but not be limited to, the following information:

- The name of the insured for whom outside counsel has been retained to defend along with the mailing address, telephone number, and contact name.
- The name, mailing address and telephone number of the BPEM claim professional (and the TPA/SA, if applicable).
- The BPEM claim file number.
- A copy of the complaint, if applicable, and all other pleadings as received by BPEM.
- A copy of pertinent correspondence, reports, statements, or investigatory materials.

All new case assignments will be confirmed in writing by outside counsel (fax or e-mail) within two (2) business days of the assignment, with a copy to the insured (the confirmation letter). The BPEM claim file number, name of the plaintiff(s), and the name of the insured(s) must be included on all future correspondence sent to the BPEM claim professional or insured.

IV. BILLING RATES AND INVOICING

A. <u>Hourly Billing Rates</u>

We view every bill from outside counsel as a certification by the firm and billing partner that the legal services and disbursements reflected on the bill are both reasonable for the legal matter involved and necessary for the proper provision of legal services on behalf of the BPEM insured. Attorney and paralegal time and disbursements that are not necessary for the cost-effective handling of the legal matter should be deleted. We expect outside counsel to refrain from billing non-billable time or expenses as outlined in these Guidelines. Compliance with this procedure will avoid delays in processing your invoice.

BPEM will pay for actual services rendered at rates that have been established and agreed to in advance. Time spent preparing, discussing, or supporting your bills will not be reimbursed by BPEM.

All charges must reflect the work performed within the billing period, or a reasonable time before. BPEM reserves the right to refuse to pay any charges incurred by the firm more than 90 days prior to a statement's listed billing period.

Hourly billing rates shall include all items of overhead. Overhead includes all administrative or general costs incidental to the operation of the firm. Overhead expenses shall not be separately reimbursable. Examples of specific items of overhead are set forth in these Guidelines.

BPEM expects that all rates will remain in effect during the pendency of an engagement, unless otherwise agreed to in advance, in writing, by BPEM. The rates we agree to for your law firm's staff with respect to BPEM matters shall not increase for any reason without prior written approval by BPEM.

BPEM reserves the right to conduct an audit of your law firm to verify the accuracy of all invoices paid by BPEM.

B. Minimum Billing Increment/Maximum Hours Per Day

All time records shall represent the actual time required to perform the task or activity and shall be kept in time increments not to exceed 0.10 hour. There is a limitation of ten hours per day on billing, unless previously approved, in writing, by BPEM.

BPEM will not pay for time solely related to travel. If, however, specific billable work is done for BPEM while traveling, BPEM will pay for this time.

C. Frequency and Form of Invoicing

You must submit invoices electronically as an Adobe PDF file (.pdf) on a monthly basis, within 20 days after the end of each calendar month. Each matter must be separately invoiced and sent to the attention of the claim professional responsible for the matter at BPEM in the required format as requested by BPEM. Invoicing is required by individual matter. This will help facilitate the timely payment of fees and expenses. Invoices should be addressed as follows and e-mailed to your designated claim professional at BPEM:

[Name of BPEM claim professional]
Berkley Public Entity Managers
30 South 17th Street
Suite 820
Philadelphia, PA 19103
sdzury@wrberkley.com

D. Format and Presentation of Invoices

All invoices should include the following information (see Exhibit A):

- The name or title of the matter.

- A specific invoice number for the particular bill and the period covered.
- The date of the statement.
- Your Federal Employee Tax Identification Number (TIN).
- A summary sheet detailing the total of fees and disbursements during the period, year-to-date and since inception of the matter, and any outstanding invoices.
- A table summarizing the following for each professional who worked on the matter for the period covered by the invoice: name, position, aggregate time spent, hourly rate, and total charge; and
- A separate itemized list of disbursements and expenses showing the date the expense was incurred, a descriptive explanation of the charge and the amount of the charge; and
- A chronological listing of services performed by each attorney and/or paralegal with a comprehensive summary description of services actually performed; and
- The name of the BPEM claim professional for whom the work was performed, including the time spent on each task, in tenths of an hour.

E. Time Descriptions

Blocked or combined billing **will not be approved** and the invoice containing such charges and descriptions will be returned to you for correction. Blocked or combined billing is defined as a billing entry that assigns one amount of time to more than one task. Examples of blocked billing entries are:

- "Prepare for and attend deposition of Mr. Smith – 6.20 hours."
- "Prepare for conference with client regarding discovery responses; Multiple e-mails with co-counsel regarding 07/01/12 deposition; Conference with F. Thomas to prepare for deposition on 07/01/12; Begin drafting motion for summary judgment – 4.3 hours."

Include Sufficient Detail: Generic descriptions **alone** are not acceptable for billing purposes. For example, without additional description, the following types of descriptions would be unacceptable:

"attention to matter"	*"conference"*
"discovery"	*"meeting"*
"prepare for meeting"	*"research"*
"work on discovery"	*"work on file"*
"e-mails"	*"document review"*

F. Third Party Vendors

Invoices for all other work performed by third party vendors (including but not limited to outside legal/litigation support) should be billed monthly at actual cost as part of your firm's disbursements on matter specific basis. For more detailed information, see Section VII below, "Third Party or Internal Disbursements." On each billing statement, include separate entries for the amount billed on the matter year-to-date and the amount billed from the outset of the matter.

G. Audit of Billing Statements

BPEM reserves the right to periodically audit your law firm's billing statements and supporting documentation.

H. Payment

Absent a dispute, BPEM will ordinarily pay an invoice within 30 days of receipt. Payment does not constitute a waiver of any of our rights or remedies available at law or in equity, which we hereby reserve in full.

We expect you to be attentive to questions on invoices and to be reasonable in resolving any disputes that may arise. Credits or debits resulting from resolution of billing disputes should be indicated separately on your invoice with a description of the adjustment.

V. STAFFING

A. General Requirements Regarding Staffing

Initial staffing decisions should be approved in advance by BPEM. BPEM should be advised in advance of any significant staffing changes, and, in particular, if any significant part of the matter is turned over to another individual. We expect that you will make every effort to provide for continuity in staffing and to assign the appropriate level of legal experience to all issues and matters.

B. Attorneys

1. One attorney should have ultimate responsibility for staffing and other decisions for each matter for which your law firm is engaged.

2. The responsible attorney should be aware of who is working on the matter at all times and personally approve all assignments. He or she is expected to review and be knowledgeable and accountable for all your law firm's billed time and expense reimbursement requests.

3. Without prior written approval, BPEM will pay for only one law firm member's attendance at any event (e.g., depositions, hearings, and negotiation sessions.)

4. You should keep consultations with other attorneys in the firm to a minimum level consistent with effective and efficient representation.

5. The level of expertise of the attorney should be appropriate to the complexity of the task. Partners should not bill for tasks that can be performed just as competently by associates at a lower cost. Similarly, associates should not bill for tasks that can be just as competently and more economically performed by paralegals.

6. BPEM will not pay for time spent "getting up to speed" or other restart-up costs due to staffing changes unless such changes are made to meet a particular need in the matter at hand, and are made with BPEM's prior written approval.

C. Paralegals

BPEM encourages the appropriate use of paraprofessionals. However, payment for paralegal time is limited to those activities requiring their special expertise and does not extend to administrative or clerical tasks.

D. Third Party Vendors and Other Non-Law Firm Personnel

1. You agree that you will not retain any third party vendors, other law firms, outside consultants, expert witnesses or other non-law firm personnel without the prior written approval of BPEM.

2. Please be aware that in many cases BPEM will have preferred vendors that you will be required to use.

VI. ACTIVITIES

A. Intra-Office Conferences

BPEM will only pay for necessary consultations and/or team strategy meetings relating to significant legal events concerning a BPEM insured.

B. Legal Research and Memoranda

1. All legal research must first be authorized by BPEM. Any legal research exceeding two (2) hours must be authorized in writing by BPEM.

2. BPEM will not pay for redrafts or rework of legal writing when performed to improve an associate's legal research or writing skills.

3. If legal research also is applicable to other clients, BPEM should only be charged for its proportionate share of the costs. Where feasible, you should update prior relevant research that is available within your firm and you should only charge us for the updating.

C. Administrative Activities

Unless specifically authorized in advance by BPEM, administrative charges are not acceptable, and should not be included on any invoice. Administrative charges include, but are not limited to, the following:

- Preparing and reviewing monthly billing statements.
- Scheduling or reviewing firm personnel.
- Preparing initial budgets of time, staffing, or total costs of projected legal work.
- Maintaining a calendar or tickler system.
- Investigating conflicts.
- Preparing engagement proposals or other marketing expenses.
- Time related to reviewing, opening or closing files.
- Routine scheduling of appointments, depositions, meetings, including the making of travel arrangements, and contact with court reporters.
- Charges after a matter is closed or a case is resolved; and
- Routine administrative tasks including, but not limited to, typing, word processing, filing and answering telephones.

VII. THIRD PARTY OR INTERNAL DISBURSEMENTS

A. Actual Cost

BPEM will compensate reimbursable expenses at actual cost. Actual cost is defined as the amount paid, net of any discounts, to a third-party provider of goods or services. In no event will BPEM pay any markup or administrative charges on third party charges. All descriptions of charges and services must include a sufficient description to know what was done, at what rate, and for what purpose.

B. Documentation

For outside vendor expenses, appropriate documentation will consist of actual vendor receipts rather than charge account receipts (except for restaurant charges). For reimbursable internal expenses, appropriate documentation will consist of a daily entry log for long distance telephone calls including the date, number or person called, and the charge for the call; and for photocopies, a daily log listing the number of copies and the per-page charge.

C. Specific Expenses

1. *Photocopies* – Necessary photocopying and scanning will be reimbursed at the actual cost to the law firm, at a rate not to exceed .10 cents per page. For jobs greater than 400 pages, the work must be performed by an outside vendor or inside at actual cost, at a rate not to exceed .05 cents per page unless prior approval is obtained from BPEM.

2. *Faxes* - You will not charge BPEM for fax services.

3. *Long Distance Telephone* - BPEM will reimburse the law firm for the actual cost incurred.

4. *Administrative/Overhead* – BPEM should not be charged for general administrative overhead and support staff expenses, including, for example, routine secretarial work, overtime, messenger service, office supplies and administrative fees for opening a file, meals, word processing services, postage, local telephone calls, taxicab fares for staff who work late, computer time other than reasonable and authorized legal research, and then only at cost.

5. *Overnight Delivery and Messenger Services* – BPEM will reimburse at actual cost for overnight delivery and messenger service when necessary. These services should not be routine.

6. *Computerized Research* – In addition to paying for the attorney or legal assistant time performing the research, we will reimburse only actual expenses for Lexis, Westlaw or other electronic research tools. If you pay a fixed rate for Lexis/Westlaw services, we should be billed based on the actual cost and not the normal Lexis/Westlaw rates.

D. Local Travel

Expenses, such as parking and tolls, will be reimbursed at actual cost. Transportation charges incurred for travel between an individual's home and office will not be reimbursed. Mileage may be reimbursed at the then-current IRS-approved reimbursement rate, but only for mileage that exceeds the normal daily commute mileage total between an individual's home and office.

E. Out-of-Town Travel

Alternatives to travel, such as conference calls or videoconferencing, should be used whenever possible. If travel is necessary, BPEM will reimburse the law firm for actual, out of pocket travel, lodging and meals expenses reasonably incurred by its personnel in connection with BPEM authorized travel away from home. All travel expenses for which reimbursement is sought must be approved in advance by BPEM. Reimbursement of travel expenses shall be limited to:

1. Air and train travel only by coach class for travel within the U.S.; by business class if overseas or outside the U.S.; BPEM will not pay for First Class travel.

2. Summaries of transportation expenses must reflect the identity of the user, the date and amount of each specific cost, and the points of travel.

3. Summaries of hotel and restaurant expenses will include the identity of the person making the expenditure, date and amount of cost, and nature of the expenditure. You commit to be reasonable and prudent in selecting hotels and restaurants.

   Hotels will be medium cost (i.e., a "three star" hotel) and meals will be reasonably priced for the geographic area. BPEM will not pay for any personal charges such as charges for pay TV, entertainment, hotel mini-bar, fitness centers and the like. As indicated earlier, BPEM will not pay for time spent traveling. If, however, specific billable work is done for BPEM while traveling, BPEM will pay for this part of the total time spent traveling.

F. Extraordinary Expenses

Your firm must obtain BPEM approval prior to incurring extraordinary expenses such as computerized litigation support services or videotaping of depositions.

VIII. LITIGATION ACTIVITIES

A. Litigation Plan and Budget

1. *Litigation Plan* – Effective partnering necessitates dynamic and continuous communication and shared responsibility between the BPEM claims professional, the insured and outside counsel. We will require that you prepare a litigation plan (and the litigation budget as set forth in Section VIII., A., 2.) for our review and approval within thirty (30) days of engagement on each new matter. At a minimum, this litigation plan shall address initial and ongoing strategies for the resolution of the matter and shall be broken down by phases of the litigation (i.e., pleadings, fact and expert discovery, investigation, pre-trial notices, legal research, trial preparation and trial). It should include a projected timetable of activities, the person primarily responsible for conducting that activity, and a detailed budget forecasting hours, fees, and expenses.

   In addition to performing assigned legal work in a competent and timely manner, outside counsel is expected to keep the insured and BPEM claim professional apprised of material developments as they occur. Regular and effective communication is one of the most important expectations that we have of our outside counsel. This communication includes, but is not limited to, information affecting the agreed upon and, in effect, litigation budget.

2. *Litigation Budget* – The litigation budget is intended to be a tool for both the BPEM claim professional, outside counsel and the insured. A litigation budget in connection with the litigation plan is required within thirty (30) days of assignment. The litigation budget should be a financial translation of the agreed upon litigation plan, and case strategy/management and is meant to assist the responsible attorney in monitoring legal expenses, as well as facilitating communication. Thus, it should reflect major assumptions, identify specific work phases and estimate the cost of each phase.

   We understand that budgeting is an imprecise science, and that the timing of events is often not entirely controllable and that strategies can change as a matter develops. After the litigation budget is submitted and approved, it should be reviewed and updated quarterly for ongoing matters, unless intervening events necessitate earlier adjustment. However, once the litigation budget has been completed and approved by BPEM, you should notify the BPEM claim professional well in advance (a minimum of thirty days is recommended) if there is any possibility that your fees will exceed the litigation budget. <u>If advance approval is not sought to exceed the litigation budget, fees in excess of your litigation budget will not be paid.</u> You cannot assume that BPEM will pay for any budget variances in the absence of such advance notification and budget revision approval.

Existing technology resources should be utilized where appropriate to reduce administrative and reporting expenses. We expect outside counsel to stay current on technological advances within the legal industry and share their expertise in using technology, such as extranets, knowledge bases and collaboration tools. You should designate a relationship partner to provide overall supervision of our matters and to be our principal contact at your firm.

3. *Communication of Litigation Plan and Budget to Entire Team* – To ensure that everyone understands the budgetary considerations before undertaking any work, the approved litigation plan and budget and these Guidelines should be communicated to every employee of your law firm who will work on the litigation team for any assigned matter. We propose to review the litigation plan and budget and performance against the budget with you at least every quarter, and after the occurrence of any significant event, to assess strategy and progress in accordance with the budget. At a minimum, outside counsel is required to send an updated litigation plan and budget to the claim technician and the insured every six months from the date of the new case assignment.

B. Discovery, Motion Practice, Pleadings, Transcripts and Documentation

Outside counsel is charged with the responsibility to develop a cost-effective yet comprehensive discovery plan with the objective of maximizing effectiveness and identifying and retaining strategic advantages. BPEM requires that outside counsel discuss with the insured and the claim technician any substantive motions before they are drafted, including motions for summary judgment.

The BPEM claim professional and the insured must be consulted before making any tactical or strategic decisions in the litigation. All discovery requests must be directed to the insured (with a copy to the BPEM claim professional) that will assist in preparing or reviewing the draft answers and responses. Also, the claim technician and the insured should be given the opportunity to, and often will, participate in the substantive drafting of documents prepared on behalf of the insured. To permit the review, please send the insured and the claim technician at BPEM all documents and filings at least one week prior to due date, unless exceptional circumstances require a shortened response time.

You should discuss your strategy for taking depositions, or producing the insured's employee(s), or ex-employee(s) for deposition with the insured and the BPEM claim professional. Copies of deposition transcripts should be made available upon request from the insured or BPEM claim professional. Summaries of depositions should be provided no later than five (5) business days following the deposition.

The following items, which are not intended to be inclusive, shall be sent to the insured and the BPEM claim professional:

- A copy of the Complaint, any Amended Complaints or any Third-Party Complaints, if applicable.
- A copy of the Answer, any Amended Answer or other responsive motion.
- Copy(s) of pleadings or motions, including but not limited to;
    - Interrogatories (or a summary as directed by the claim technician).
    - Demands for Bills of Particulars.
    - Answers to Interrogatories (or a summary as directed by the BPEM claim professional).
    - Document Demands or Discovery Requests and Responses thereto (the BPEM claim professional will advise outside counsel if they desire copies of the documents or just a summary).
    - Request for Admissions (or a summary as directed by the BPEM claim professional).
    - Responses to Request for Admissions (or a summary as directed by the BPEM claim professional).
    - Motions in Limine.
    - Motions Designating Experts.
    - Motions for Summary Judgment.
    - Pre-Trial Memorandum
    - Mediation Memorandum or Arbitration Statement.
    - Motions seeking any kind of Sanction(s).
    - Settlement Demands or Proposals

An Adobe PDF (.pdf file) of the above listed items should be used to send the information to insured and claim technician via e-mail. Hard copies of the above items should only be sent upon request.

C. Settlement Conferences, Trials and Other Hearings including ADR

BPEM favors early settlements in appropriate matters and encourages outside counsel to think about settlement and/or alternative dispute resolution strategies throughout the representation of an insured. Accordingly, timely and meaningful settlement evaluations should be included with the appropriate litigation plan (and updated as needed). However, no settlement or ADR strategy will be employed by outside counsel without a specific matter review and approval by the claim technician and the insured.

Outside counsel shall immediately notify the BPEM claim professional and insured of any arbitration, mediation, settlement conference or trial of any matter as soon as the date is set or scheduled by the parties to the litigation or the court. If the date is postponed, outside counsel shall notify the BPEM claim professional and the insured of the new date as soon as it is established. Prospective dates for mediation, arbitration or other ADR event will first be discussed and agreed to by the BPEM claim professional and the insured before outside counsel can agree to a date(s) with other parties. Outside counsel shall provide, upon request of the BPEM claim professional or insured, a complete matter evaluation, mediation memorandum, arbitration statement, or pre-trial report no later than thirty (30) days in advance of the scheduled date.

If a matter is taken to trial, outside counsel will report at least once a day to the BPEM claim professional and insured. The results of hearings, arbitrations, mediations, verdicts or judgments, or other court appearances by outside counsel will be **immediately communicated** to the BPEM claim professional and insured, with a written report to be provided **within forty eight (48)** hours of the hearing, arbitration, mediation, judgment or verdict or court appearance.

IX. RETENTION OF WORK PRODUCT, FINANCIAL RECORDS AND AUDITS

BPEM requires that your law firm retain all work product, including research, notes, memoranda, pleadings, etc., that substantiates your billed tasks. BPEM requires that all time sheets, pre-bills, billing memoranda, etc., associated with the billing statements be retained and, if requested, submitted to BPEM on demand.

Outside counsel and the firm expressly consent to be audited by BPEM or its duly appointed representative to ensure compliance with these Guidelines, compliance with BPEM corporate directives relating to the retention of vendors, and other requirements that BPEM or the insured may reasonably require. Outside counsel and the firm consent to such audits at such periods and time that BPEM deems appropriate.

Outside counsel and the firm expressly agree to cooperate with such audit requests from BPEM or the insured, and in the audit process. The audit process will include, but not be limited to, inspection of all aspects of the legal files assigned to the law firm by or on behalf of BPEM, billing invoices, billing memorandums, time sheets and any and all financial records related to the law firm's assignment of a matter by or on behalf of BPEM.

X. CONFIDENTIALITY

You agree to fully preserve and protect the confidential, proprietary and legally privileged information and materials (collectively, "information") of BPEM's insureds and of BPEM, its subsidiaries, affiliates and related companies, to which you may be exposed or which you may be provided, receive or encounter for any reason and at any time in connection with your representation of BPEM's insureds and any others which come within the scope of these guidelines and such parties. Without waiver or limitation of the foregoing, you further agree that you will not use or disclose to any third party any Information, without the express prior written consent of the insured and/or BPEM.

XI. MEDIA RELATIONS AND PUBLICITY

Please report any media inquiry relating to an insured or BPEM, including the nature of the inquiry to BPEM and the insured immediately. Do not make statements to the media relating to any matter involving BPEM or an insured without the express approval of BPEM and the insured.

XII. GUIDELINES SUBJECT TO PERIODIC REVIEW AND REVISION

BPEM continually reviews and updates its billing policies and general guidelines. We look forward to working with you and welcome your suggestions to assist us to better manage and further control costs.

We intend to periodically review and communicate to you our evaluation of your performance. This assessment is meant to be used as a tool to improve our communication and to provide constructive feedback between us. It may also facilitate consideration of our year-end review of your effectiveness and efficiency. We would also appreciate an oral or written report from your firm on a periodic basis that reviews and communicates your evaluation of your firm's performance, including compliance with these Guidelines. Such a report will also provide you with the opportunity to evaluate our performance and identify the successes or shortcomings in our contribution to our mutual goals.

XIII. EXCEPTIONS

It is outside counsel's responsibility to discuss with the Senior Vice President of BPEM Claims all questions concerning applications of these Guidelines before proceeding on a course of action not specifically authorized by the Guidelines. If an exception to the Guidelines is deemed necessary by outside counsel, a written request must be submitted and a written approval must be obtained from the Senior Vice President of BPEM Claims.

A copy of the request should be forwarded to:

Stephen Dzury
Senior Vice President, Claims
Berkley Public Entity Managers
30 South 17^{th} Street
Suite 820
Philadelphia, PA 19103

Please sign a copy of these Guidelines below and return the signed copy to Stephen Dzury, Senior Vice President, Claims, Berkley Public Entity Managers, 30 South 17^{th} Street, Suite 820, Philadelphia, PA 19103.

AGREED TO AND ACCEPTED:

By: ______________________________
Name:
Title:

On behalf of: ______________________________

Date: ______________________________

PMA Management Corp.

Workers' Compensation

Litigation Guidelines for

Defense Counsel

Effective January 2015

TABLE OF CONTENTS

SECTION 1 – DEFENSE COUNSEL

I. INTRODUCTION & RESPONSIBILITIES

Defense counsel plays an integral part in the claim resolution process. Our Claim Professionals rely on counsel for legal advice and guidance to assist in meeting PMAMC's obligations with insureds, self-insureds, and insurance company clients in claim administration contracts. This process requires a team effort between PMAMC Claims and counsel to best protect the interests of our mutual clients and to handle their claims promptly, efficiently and correctly. Nothing contained herein is intended to, nor shall restrict, counsel's independent exercise of professional judgment in rendering legal services or otherwise interfere with any ethical directive governing your conduct as counsel.

We know you are prepared to assist our Claim Professionals and we appreciate the value of your services and cooperation.

II. RESPONSIBILITIES OF PMAMC

- At the discretion of the client, assign competent counsel to protect the interests of the client.
- Provide counsel with the information necessary to represent the interests of our mutual client.
- In conjunction with counsel, develop a litigation plan.
- Communicate litigation developments to our mutual client when necessary.

III. RESPONSIBILITIES OF COUNSEL

- Protect the interests of our mutual client.
- Provide a budget in accordance with these guidelines as well as utilizing best estimates of the ultimate cost of representation. At all times counsel shall be conscious and reasonable with regards to litigation expenses. Updates to budget estimates are required when necessary.

- Provide legal analysis, opinion and exposure assessment, including settlement value ranges as outlined in the reporting criteria throughout the litigation process.
- Immediately report important events such as changes in a claim's facts or developments in applicable law.
- Respond promptly to requests by PMAMC for clarification or elaboration on any topic.
- Consult and obtain approval of the Claim Professional prior to filing any affirmative pleading, joinder, appeal, or other substantive motion.
- Consult and obtain approval of the Claim Professional prior to retaining any expert or vendor.
- Consult and obtain approval of the Claim Professional prior to agreeing to participate in any mediation/arbitration, including the selection of arbitrators.
- Communicate litigation developments to our mutual client.
- Assist with CMS reporting compliance
- Unless otherwise instructed by the Claim Professional, counsel is to communicate directly with the Claim Professional and not the client. Where counsel is authorized by the Claim Professional to communicate directly with the client, the Claim Professional is to be included in such communication without exception.

IV. DOCUMENTATION TO PMAMC

The Claim Professional should receive copies of every document contained in counsel's files, with the exception of copies of deposition transcripts (unless specifically requested). General correspondence should be sent via regular mail. If you prefer to use email for correspondence, please use the following email address: claimsmail@pmagroup.com, referencing PMA's claim number in the subject line. This will ensure that all correspondence gets imaged to the claims file(s). Please only copy the adjuster on your email if the correspondence is of an URGENT matter.

V. SETTLEMENTS

- All settlement negotiations are to be handled by our Claim Professionals unless otherwise authorized. Counsel is expected to advise whenever a settlement offer has been received by counsel, or in counsel's opinion a settlement offer should be forthcoming by PMAMC.

- We are committed to Alternative Dispute Resolution/mediation as a cost effective, efficient and equitable method of resolving litigated cases and it should be used whenever appropriate.

- We encourage the use of structured settlements. The Claims Professional will select the structured settlement provider and secure all structured settlement quotes. Notice for a Claim Professional to attend pre-trial conferences, settlement conferences, mediations/arbitrations, depositions or trials must be provided to the Claim Professional as soon as these events are scheduled.

VI. ASSIGNMENT, STAFFING or LITIGATION MANAGEMENT

- The assigned attorney is responsible for the overall management of the litigation and should be involved in key aspects of the litigation. However, PMAMC recognizes there may be reasons to involve other legal personnel in the management of a case. We expect that anyone assigned to perform a task be fully competent to handle that task and not require supervision.

- We expect counsel management to make the most appropriate staffing decisions to achieve our goal of cost effective litigation management.

- We must be consulted, and provide authorization, if more than two attorneys are assigned to any litigated matter.

- Authorization from a PMAMC Claim Professional must be obtained prior to transferring the case to another attorney within the law firm.

SECTION 2 – WORKERS COMPENSATION REQUIREMENTS

I. ACKNOWLEDGEMENTS

- A brief form letter acknowledging receipt of the WC assignment must be sent to the Claim Professional within 3 (business) days of receipt.
- Copies of all formal filings, at all levels, must be submitted within three business days to the Claim Professional.

II. INITIAL REPORTS

- An initial report must be provided to the Claim Professional within 30 days of assignment or before the first hearing, whichever occurs first.
- The report should be narrative and outlined as follows:

Topics to be addressed should include, but are not limited to:

a) Case name
b) Case number(s)
c) District, judge, adversary
d) Summary of facts
e) Key factual and legal issues to be addressed
f) Controlling case law
g) Proposed litigation strategy (especially in regard to the key issues), vocational rehabilitation, IME v. treating physician etc. Permanency Evaluation, Credits/offsets, prior/subsequent accidents/injuries, lien evaluations and return to work issues
h) Evaluation of exposure and appropriate resolution ranges
i) Medicare Analysis
j) Recommendations for further investigation
k) Initial Budget as outlined in a subsequent section
l) Response to any additional inquiry from the Claim Professional

III. ISSUES OF JOINDER

- Any issues of joinder of additional parties must be timely discussed with the Claim Professional and approval to file a joinder obtained from the Claim Professional prior to such filing.

IV. CONTINUANCES

- Continuances of compensation hearings are not permitted without the prior express written consent of the Claim Professional. Counsel should be prepared to provide PMAMC and the client the reason(s) for the continuance. Should the Claim Professional, client, or defense witness be expected to observe or participate in a compensation hearing, counsel shall advise the Claim Professional, client, and/or defense witness immediately of the continuance to avoid unnecessary time and expense.

V. HEARING/DEPOSITION REPORTS

- Following each ADR proceeding, hearing and/or deposition, a report detailing the results of the proceedings must be made to the Claim Professional within 5 (business) days addressing the following (if applicable):

  a) Current status of litigation (e.g. depositions completed, evaluations completed, settlement demand, etc. and updates impacting initial analysis).
  b) Additional activities necessary prior to hearing or the closing of the record.
  c) If the record is closed, the anticipated time of the decision.
  d) Anticipated outcome.
  e) Recommendations regarding settlement prior to receipt of decision (yes/no, amount, demand, etc.)
  f) Status of fees and costs to date versus budget.
  g) Further recommendation/suggestions.
  h) Assessment of any changes in exposure (i.e. social security, second injury fund, subsequent accidents, additional medical, etc.)

VI. DECISION REPORTS

- Within three business days of the judicial decision, a report must be sent to the Claim Professional detailing all appealable issues for all parties, and recommendations or opinions regarding success on appeal.

- When a settlement has been approved and an order/decision rendered, a copy of the order/decision must be sent to the Claim Professional within three business days of its issuance.

VII. WORKERS' COMPENSATION BUDGET FORM INSTRUCTIONS

- Unless otherwise directed, counsel is required to submit a workers' compensation budget.

- The budget must be completed and submitted to the Claim Professional by the assigned attorney within 30 days of receipt of assignment or prior to the first hearing (whichever comes first), unless otherwise directed. If based upon the file materials and circumstances of the litigation counsel is unable to complete an accurate budget at the 30 day interval, this must be communicated to the Claim Professional and approval obtained to submit the budget at a later date.

- This budget must be promptly updated, but in no event any later than seven days after a change to the litigation plan impacts the projected budget.

- Bills received beyond the budgeted amount will not be paid unless previously approved or upon receipt of a supplemental budget. PMAMC shall not be responsible to counsel or any other third party vendor retained by counsel for late fees, interest, penalties, or other charges.

VIII. WORKERS' COMPENSATION PROJECTED BUDGET FORMAT

Budget must be completed within 30 days of receipt of file or prior to the first hearing (whichever comes first).

Case Caption: Attorney File No:

PMAMC Claim No: Attorney Assigned:

Type of Petition: Judge Assigned:

Estimated Hours

I. Initial REVIEW AND REPORTING

2. DISCOVERY
- a) Filing
- b) Reviewing
- c) Responding

Subtotal Hours x Rate =

3. ADR PROCEEDINGS
- a) Preparation
- b) Attendance
- c) Post-ADR Reporting

Subtotal Hours x Rate =

4. HEARINGS
- a) Estimated Hearing Preparation
- b) Attendance
- c) Witness Preparation
- d) Travel Time
- e) Reporting

Subtotal Hours x Rate =

5. DEPOSITIONS
- a) Medical
- b) Vocational
- c) All Fact Witnesses
- d) Investigation
- e) Preparation
- f) Witness Preparation
- g) Attendance & Reporting
- h) Travel Time
- i) Other (explain)

Subtotal Hours x Rate =

6. EXPERTS
- a) Type needed

Subtotal Hours x Rate =

7. **PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, BRIEFS, MEMORANDUM OF LAW**

Subtotal Hours x Rate =

8. **MISCELLANEOUS**

a) Review and Drafting Correspondence
b) Review of Records
c) Court Conferences
d) Telephone Conferences______________________________
e) Research
Topic ____

Subtotal Hours x Rate =

9. **APPEAL PREPARATION**

Complete this section only when an appeal has been filed by any party. Complete only to the extent of services and costs that will be rendered at the particular appellate level where the appeal is filed. E.g., if appeal is filed at WCAB, complete only for services and costs at WCAB level. If there is a further appeal, please update this budget.

Appeal Preparation (including legal research, briefs, oral argument and related reporting)

Subtotal Hours x Rate =

<u>Appeal Costs</u>

a) Filing Fees
b) Duplicating & Reproduction
c) Other (explain)

Subtotal

Total Fees & Costs (Appeal Only)

10. **COSTS**

a) Subpoena Fee
b) Court Fees
c) Transcripts
d) Long Distance Travel
e) Record Copy Services $__________________________
f) Other (explain) $__________________________

Total Costs $__________________________

Total Attorney Charges & Costs $ ____________________

COMPLETED BY: _______________________ DATE:_______________________

SECTION 3 – WORKERS COMPENSATION BILLING POLICY

PMAMC expects counsel to manage all cases with the highest degree of skill, and that counsel will exercise judicious and prudent judgment in the discharge of this responsibility. The following outlines PMAMC's Workers' Compensation Billing Policy. PMAMC reserves the right to review all charges and disbursements pertaining to litigation, including the right to conduct audits and review the defense files in a manner that will not violate the attorney-client or work-product protections afforded to our mutual client, or otherwise interfere with any ethical directive governing the conduct of counsel. Unless otherwise authorized by PMAMC, activities or charges that do not comply with the requirements outlined in this billing policy will not be considered for payment. Payment of invoices shall not constitute acceptance or approval of the accuracy of counsel's invoices.

I. CHARGES FOR LEGAL SERVICES:

- **Professional services**: These will be billed at the agreed upon hourly rates.

- Professional services do not include any activities which involve secretarial, clerical, or administrative functions and do not require legal expertise in their completion Examples of non-professional services , include but are not limited to:

A. Scheduling and arrangements.
B. Scheduling of meetings.
C. Scheduling of appointments.
D. Scheduling and arrangements for examinations.
E. Preparation of:
  1. Notice of Taking Deposition
  2. Entry of Appearance – Form or Standard Format
  3. Substitution of Attorney – Form or Standard Format
  4. Jury Trial Demand – Form or Standard Format
  5. Stipulation to Extend Time – Form or Standard Format

F. Calendaring.
G. Conflict checks.
H. Organize and re-organize files (if it does not involve sorting case documents such as individual documents attached to Requests for Production of Documents).
I. Bate-stamping, date-stamping and pagination.
J. Indexing file materials.
K. Tabbing file materials.

L. Pick-up and delivery of documents and records.
M. Telephone calls and/or correspondence to copy services, record providers, court reporters.
N. Create and organize binders and notebooks.
O. Create and organize folders.
P. Process vendor bills.
Q. Collate.
R. Prepare medical/employment authorizations – Form or Standard Format.
S. Organize for storage.
T. Update lists.
U. Copy and bind.
V. File and re-file.
W. Inventory documents.
X. Pull/copy documents.
Y. Order reporter or translator.
Z. Instructions to providers or vendors.
    1. Travel arrangements.
    2. Preparation of a record copy service form for employment/medical records.

- Examples of professional services, which should be performed by paralegals include, but are not limited to:

A. Preparation of Subpoenas.
B. Prepare Entry of Appearance – non-standard format.
C. Prepare Substitution of Attorney – non-standard format.
D. Prepare General Denial Answers.
E. Prepare Answers which do not require affirmative defenses or specific denials.
F. Prepare Interrogatories (form or standard).
G. Prepare Expert Interrogatories (form or standard).
H. Prepare Request(s) to Produce (form or standard).
I. Prepare Demand for Statement of Damages (form or standard).
J. Prepare Stipulations to Extend Time to Answer - non-standard format
K. Prepare Jury Trial Demand - non-standard format
L. Prepare Motions to Compel Responses to Discovery (form or standard). Note: If the state has a consultation requirement or each motion must be customized as opposed to being a standard form, this is an attorney function.
M. Summarize medical or employment records.
N. Summarize Answers to Interrogatories.
O. Prepare Authorization to Secure Records (medical, tax, IRS, employment, union).
P. Prepare Draft of witness list.
Q. Prepare Draft of exhibit list.

II. OTHER NON-REIMBURSABLE CHARGES:

- Deposition summaries should be completed by the attorney attending the deposition. We will not reimburse for a summary prepared by a paralegal or non-attendee.

- Attorney time spent for providing work assignments or instructions.

- Intra-office conferences, including charges for reviewing or preparing internal memos.

- General diary or file status reviews. **These are defined as a review which is not precipitated by an event and does not result in the creation of any tangible work product.**

- Costs associated with the transfer of the case or a portion of a case between law firm personnel.

- **Legal research**: Prior approval must be obtained for legal research for any one particular topic which exceeds one hour. Approval should be documented on the law firm invoice. PMAMC will not pay for routine legal research (research concerning matters of common knowledge among reasonably experienced counsel in the venue). Counsel must provide copies of all legal research conducted.

- **Court appearances:** We expect to be billed for one attorney to attend trial, depositions, court appearances and other events related to the litigation. If extraordinary circumstances arise where counsel believes it is necessary to involve another legal professional in order to best protect our mutual client's interests, counsel must consult with the Claim Professional prior to the event, and that consultation should be documented on the law firm invoice.

- **Travel Time:** Travel time shall be billed at one-half the approved hourly rate. Routine/regular court appearance travel should be billed at the appropriate pro-rata share per claim. *For example - It is the expectation of PMAMC that when counsel attends a "list" of hearings in one location on a given day that PMAMC be billed no more that is representative* *percent of travel and wait time and the exact time spent defending the listed case.*

- **Trial preparation:** We expect that counsel will properly and prudently prepare for trial at the appropriate time period when PMAMC and counsel believe with certainty that a trial will occur.

- **Billing**: Time spent preparing invoices or negotiating billing questions is not reimbursable.

III. CHARGES FOR EXPENSES:

- Copying charges: We will reimburse a per page charge for photocopies not to exceed $. 20 per page. This applies to both in-house photocopying charges or outside photocopying service charges. The number of pages and per page rate must be included on the law firm invoice.

- **Telephone and Fax expenses:** Appropriate long distance charges will be accepted. No charges should be billed for local telephone calls, faxes, or cell phone charges.

- **Postage charges:** Regular US mail and messenger or expedited mail service are considered normal overhead costs to the law firm, and should not be billed. However, PMAMC will reimburse for these services if their use is at PMAMC's request, or if an emergency situation arises that is out of the law firm's control and requires use of such a service to properly protect the client's interests. Approval of these exceptions should be documented on the law firm invoice.

- **Computer/Electronic Research:** Charges associated with the use of Westlaw, Lexis, and other computer research databases for legal research are considered an overhead item and are not reimbursable.

- **Travel Expenses:** PMAMC will consider reasonable expenses associated with travel. Routine/regular court appearance travel expenses should be billed at the appropriate pro-rata share per claim. *For example - It is the expectation of PMAMC that when counsel attends a "list" of hearings in one location on a given day that PMAMC be billed no more than its representative percent of travel and wait time and the* *exact time spent defending the listed case.* Each date of travel should be separately itemized and include the name of the traveler and purpose of the trip.

- **Mileage:** Reimbursed at the prevailing annual IRS rate.
- **Parking and tolls:** These charges must be separately described.
- **External Expenses:** Charges for services by outside vendors, other than photocopy services, will be reimbursed at their actual cost. Outside vendor invoices must specifically describe the nature of the expense, the date it was incurred, and the amount. It is counsel's responsibility to ensure that outside vendor's invoices are appropriately documented. If the expense is incurred directly by the law firm, it must be appropriately documented on the law firm invoice and a copy of the bill forwarded to PMAMC. Charges in excess of $250 must be submitted directly to PMAMC, unless specifically approved by a PMAMC representative.
- **Database/Data Entry Charges:** Charges for preparation, maintenance, data entry, scanning, programming and document input will not be reimbursed.

IV. BILLING REQUIREMENTS

- Time should be billed in increments of 1/10 of an hour.
- Time should be billed to the Claim Professional quarterly.
- More frequent billing is appropriate on complex cases which have accrued more than $10,000 in legal fees within the quarter.
- A separate explanation of each charge is expected. **<u>No Block Billing.</u>**
- The mere billing of a file should not, by itself, generate a status report.
- The item description should provide a clear explanation as to who is involved in the activity and how it relates to the litigation. The description should allow the Claim Professional to determine the professional service provided and assess the appropriateness of the time charge as it relates to the litigation.

- It is expected that counsel will exercise best professional judgment in developing billing descriptions to avoid any violation of ethical obligations or disclosure of privileged or confidential information.